

WAGE REQUIREMENTS LAW **FY 18 ANNUAL REPORT**

The Wage Requirements Law (County Code Section 11B-33A) aims to ensure that employees of vendors awarded certain County service contracts receive livable wages¹. The Wage Requirement Law (WRL), commonly known as the Living Wage Law, is an effort to address concerns about the ability of employees of vendors awarded contracts by Montgomery County to attain a wage commensurate with the cost of living in Montgomery County. The Law exempts a limited class of vendors from WRL coverage, including vendors with contracts under \$50,000, tax exempt organizations and bridge contracts.

FY 18 Retroactive Pay from County Contractors

As a part of WRL enforcement, the Office of Procurement conducts audits when circumstances warrant it. When an audit reveals an underpayment of the vendor's employees who work on contracts awarded by the County, the Office of Procurement requires the vendor to issue back pay to the affected employees. FY 18 saw the closure of two audits. These actions resulted in retroactive pay of \$345.60 that was shared among 2 workers. In addition to audits, when the County discovers a violation, the County and the contractor often agree to a settlement. In this manner, all of the parties avoid the time and expense of an audit. In FY 18 these efforts resulted in forty-seven workers sharing in \$6,647.92 in back pay.

Another administrative requirement of the Wage Requirements Law is for contractors to submit quarterly payroll reports. Under County Law, these reports must contain the worker's wages, health insurance and other fringe benefits, as well as the race and gender of workers who perform work on the County contract. In FY 18 the County realized a submission rate of 82.7%.

¹ The Wage Requirement Law is applicable to contracts executed on or after July 1, 2003.

Minority, Female and Disabled (MFD) Contracts Subject to the Wage Requirements Law

The WRL requires an annual report on the number of contracts and subcontracts with minority-owned businesses that are subject to the requirements of the Law along with data on year-to-year variance. In accordance with Section 11B-33A(i) of the Wage Requirements Law, the tables below contain the number of MFD contracts and subcontracts subject to the Wage Requirements Law.

**MFD Contracts and Subcontracts Subject to the Wage Requirements Law
FY15 — FY18**

	FY15 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	659	97	15%	49	7%
Contracts with a vendor-claimed exception	385	27	8%	3	1%
Contracts operating under the Wage Requirements Law	274	70	26%	46	17%

	FY16 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	831	149	18%	61	7%
Contracts with a vendor-claimed exception	469	46	10%	3	1%
Contracts operating under the Wage Requirements Law	362	103	28%	58	16%

	FY17 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	1025	295	29%	134	13%
Contracts with a vendor-claimed exception	413	91	22%	5	1%
Contracts operating under the Wage Requirements Law	612	204	33%	129	21%

	FY18 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	931	334	36%	115	12%
Contracts with a vendor-claimed exception	398	98	25%	3	1%
Contracts operating under the Wage Requirements Law	533	236	44%	112	21%

For the years reported, FY15 through FY18, MFD participation was relatively consistent. For those contracts ultimately subject to the Wage Requirements Law, those with no vendor-claimed exemption, for prime contractors, the participation range was from 26% to 44%. The average MFD prime contractor participation was 32.75%. For MFD sub-contractor, their participation ranged from 16% to 21%, and the average MFD sub-contractor participation was 18.75%.

Vendor-Claimed Exceptions to the Wage Requirements Law

The Wage Requirements Law allows for exceptions based on the characteristics of the vendor's business. The County began compiling this information in FY06.

	FY15	FY16	FY17	FY18
Contracts subject to Wage Requirements Law ⁱ	659	831	1025	931
Contracts with a vendor-claimed exception	385 (58%)	469 (56%)	413 (40%)	398 (43%)
Contracts operating under the Wage Requirements Law	274 (42%)	362 (44%)	612 (60%)	533 (57%)
Reason 1	25	21	8	0
Reason 2	265	328	226	215
Reason 3	7	8	4	5
Reason 4	107	129	169	175
Reason 5	0	0	0	0
Reason 6	2	3	3	2
Reason 1,2	0	0	0	0
Reason 1,4	0	0	0	0
Reason 2,4	4	1	3	1
Reason 1,2,4	0	0	0	0
Total	385	469	413	398

¹ Section 11B-33A (b) of the County Code permits vendors to claim exceptions to the Wage Requirements Law. They are listed on the Wage Requirements Certification form as follows:

Reason 1 - Vendor employs fewer than 10 employees. (Repealed effective April 1, 2010.)

Reason 2 - Vendor has received less than \$50,000 in the last 12 months and will receive less than \$50,000 in the succeeding 12 months.

Reason 3 - Vendor is a public entity.

Reason 4 - Vendor is a nonprofit organization under section 501(c)(3) of the Internal Revenue Code.

Reason 5 - Vendor is expressly precluded from complying with the Wage Requirements Law by the terms of any federal or state law, contract or grant.

Reason 6 – CAO Waiver.